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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

TRETTEL, MICHAEL

ART UNIT

PAPER NUMBER

3673

DATE MAILED: 02/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/028,833

Applicant(s)

WEISMILLER ET AL.

Examiner

Michael Trettel

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 27-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27,33-35,38 and 40-44 is/are rejected.
- 7) ☒ Claim(s) 28-32,36,37,39 and 45-47 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Inventorship***

In view of the papers filed December 3, 2002, the inventorship in this nonprovisional application has been changed by the deletion of Peter M. Wukusick, Gregory W. Branson, James M.C. Thomas, Jay T. Butterbrodt, David J. Ulrich, Jason C. Brooke, Eric R. Meyer, John D. Miller, David A. Albersmeyer, and John W. Ruehl.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 38 is rejected under 35 U.S.C. 102(b) as being anticipated by Marra, Jr. (5,175,897). Marra shows a hospital bed side rail 14 that is mounted to the side frame of a hospital bed by connector elements '8 and which can be raised and lowered relative to the bedframe. A pair of control panels 32, 34 is mounted on an interior side of the side guard and contains controls such as bed configuration controls, a telephone, or an intercom. The examiner

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submits that any such controls are inherently graphical in nature, since electronic controls commonly provide some sort of graphical feedback that reflects the operation of the controls.

Claims 27, 33, 35, 37, 38, 40, and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitchell (4,612,679). Mitchell shows a side guard assembly for a hospital bed that comprises a rail assembly 40 that is supported by a pair of pivot links 72 that allow the rail assembly to be raised and lowered relative to a bedframe. The rail assembly 40 includes a side guard 42 that is pivotally mounted to the rail assembly such that it can be inverted within the rail assembly. A control panel 160 is provided on one face of the side guard and contains controls for the hospital bed. The examiner submits that any such controls are inherently graphical in nature, since electronic controls commonly provide some sort of graphical feedback that reflects the operation of the controls. Note that since the side guard 42 can be inverted within the rail assembly the controls can face to either the interior or exterior of the bed. The control panel 160 is mounted within a recess 156 defined within the side guard, with a telephone 158 being mounted in a removable fashion in the recess 156 adjacent to the control panel 160. The telephone includes graphical controls similar in nature to the controls upon panel 160. In addition the telephone is removably mounted within the recess and can be removed entirely from the recess if desired.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 34, 41, 43, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell. The use of an LCD screen as part of a control display is very well known in general, such LCD's are commonly used in items such as digital wristwatches, telephone displays, automotive instrument panels, and the like. Due to this well known type of use it would have been obvious to the skilled artisan to have used an LCD display in combination or as part of the control panel 160 or the telephone 158 of the Mitchell bed sideguard assembly. In addition to the above the use of a menuing type software control system as set forth in claims 43 and 44 is well known for use in electronic controls that use an LCD display, and as such would have been an obvious means to use in combination with the control panel of the Mitchell bed sideguard.

#### ***Allowable Subject Matter***

Claims 28 to 32, 36, 37, 39, 45, 46, and 47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 27 to 47 have been considered but are moot in view of the new ground(s) of rejection. The examiner has reconsidered all the pending claims present not only in view of the applicant's comments and arguments but also in view of the prior art cited in the case. Upon reconsideration the examiner has decided that certain of the claims

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can be rejected over prior art already of record. Since this has created a new grounds of rejection in the case this action will not be made Final.


### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Holder et al (5,191,663) and Marra, Jr. (5,097,550) show bed sideguards with integrated controls that are of particular interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is 703-308-0416. The examiner can normally be reached on Monday, Tuesday, Thursday, or Friday from 7.30 am to 5.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-308-3687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1020.

  
Michael Trettel  
Primary Examiner  
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